

1 be presented.

2 JUDGE STEINBERG: I know what it has to do with.  
3 And Mr. Romney might want to offer additional pages because  
4 you read some parts into the record yesterday -- I assume  
5 it's the same matter as yesterday?

6 MS. LANCASTER: Yes, sir.

7 JUDGE STEINBERG: With regard to Exhibit 7? Your  
8 Exhibit 7?

9 MS. LANCASTER: Yes, sir.

10 JUDGE STEINBERG: And then Mr. Romney read --

11 MR. ROMNEY: I read from page 97 over to 98.

12 JUDGE STEINBERG: Okay. So what I was going to  
13 suggest, why don't we get the pages everybody wants and just  
14 make it one exhibit, if you follow my reasoning.

15 MR. ROMNEY: Yes, sir.

16 JUDGE STEINBERG: How big is the transcript of  
17 that whole session?

18 MS. LANCASTER: This particular session is not  
19 very big, Your Honor. It's 83 through 103.

20 JUDGE STEINBERG: Do you want to put the whole  
21 thing in?

22 MR. ROMNEY: That's fine with me.

23 MS. LANCASTER: Well, the numbers -- it's  
24 approximately 20 pages.

25 MR. ROMNEY: I don't have any problem with that.

1       What's another 20 pages in this record?

2               JUDGE STEINBERG:   Well, I'm not going to tell you  
3       what to do.

4               MS. LANCASTER:   I have no problems with doing  
5       that, Your Honor, but we'll have to go -- we'll have to go  
6       find him and tell him to make copies.

7               JUDGE STEINBERG:   Well, you can find --

8               MR. KNOWLES-KELLETT:   We can just ask him when he  
9       comes back.

10              JUDGE STEINBERG:   Yes.   And then we can do that  
11      later.

12              MS. LANCASTER:   Okay.

13              JUDGE STEINBERG:   It can come in as a stipulation  
14      or a joint exhibit or your exhibit or a Brasher exhibit or  
15      whatever.   And that way everything -- if the whole thing is  
16      there, everything is in context.

17              BY MS. LANCASTER:

18              Q       Look at Exhibit 21, Mr. Brasher.   Exhibit 21 are  
19      responses that were received from various inquiry letters  
20      sent by the Commission.   Look at page 2 of that exhibit,  
21      please.

22              A       Yes, ma'am.

23              Q       That is a response which informs the Commission of  
24      the death of O.C. Brasher.

25              Did you authorize that response?

1           A     If Mr. Schwaninger sent it in, I authorized it.

2     Yes.

3           Q     So anything that was submitted to the Commission  
4     by Schwaninger & Associates would have been reviewed by you  
5     prior to it being submitted?

6           A     I won't say that. I do not know.

7           Q     Anything that was submitted by Schwaninger &  
8     Associates in this matter, would you have --

9                   JUDGE STEINBERG: There's going to be an objection  
10    to the use of the phrase "this matter" as vague.

11                   (Pause.)

12           MR. ROMNEY: And I predict that that objection  
13    will be granted.

14           JUDGE STEINBERG: It hasn't been offered.

15           MS. LANCASTER: Let me strike that.

16                   Could you read back Mr. Brasher's last response  
17    when he said if something was sent in by Schwaninger he --  
18    I don't remember the word he just used.

19                   (The record was played back by the court  
20    reporter.)

21           BY MS. LANCASTER:

22           Q     Mr. Brasher, as either a representative of DLB  
23    and/or personally, did you authorize all of the responses  
24    submitted to the Commission in WB Enforcement Case No.  
25    98-0513, which is this matter? When I refer to this matter,

1       that's what I'm talking about.

2               Did you authorize all of the responses sent in by  
3       Schwaninger & Associates?

4           A     Yes.

5           Q     On page 3 of Exhibit 21 is a notification from  
6       Schwaninger & Associates of the death of Ruth Bearden.

7               Based upon your prior answer, I take it that you  
8       also authorized that response.

9           A     Correct.

10          Q     Page 23 of Exhibit 21 is a response that was sent  
11       in on your behalf, personally on your behalf, in response to  
12       questions asked by the Commission.

13               Did you review the questions the Commission asked  
14       you prior to responding to them?

15          A     Yes, I did.

16          Q     Did you review this response to prior its  
17       submission to the Commission?

18          A     Yes, I did.

19          Q     I believe if you'll turn to page 26 of this  
20       exhibit, at the top right-hand side of the page, it appears  
21       to be your signature.

22               Did you sign that signature?

23          A     I did.

24          Q     The attachments attached to your letter, which is  
25       your personal response, and that response begins on page 23,

1 that's what I just asked you about. Immediately following  
2 that, beginning on page 27, are attachments and they go  
3 through page 60.

4 Did you gather the attachments that are attached  
5 to your response?

6 JUDGE STEINBERG: And if you want to review them,  
7 please review them.

8 We'll go off the record while Mr. Brasher does  
9 that.

10 (A brief recess was taken.)

11 JUDGE STEINBERG: We're back on the record.

12 While we were off the record, Mr. Brasher, did you  
13 have a chance to review Exhibit 21, pages 28 through 60?

14 THE WITNESS: I did, Your Honor.

15 JUDGE STEINBERG: Okay.

16 Ms. Lancaster?

17 BY MS. LANCASTER:

18 Q Did you gather those documents to be attached to  
19 your response to the Commission's September 9, 1999 inquiry?

20 A Yes, I did.

21 Q And they were submitted with your response with  
22 your permission. Correct?

23 A Correct.

24 Q Let's look at Exhibit 22.

25 A I have it.

1 Q Okay. This letter was sent in by Schwaninger &  
2 Associates and states in the first sentence that you are  
3 responding to a Bureau inquiry.

4 Did you authorize the filing of this response with  
5 the Bureau?

6 A Through Mr. Schwaninger, yes.

7 Q You talked to him about the matters that are  
8 contained in this response?

9 MR. ROMNEY: Objection, Your Honor. Calls for  
10 attorney-client privilege.

11 JUDGE STEINBERG: Sustained.

12 It was authorized, the response was authorized.

13 BY MS. LANCASTER:

14 Q Did you review the response prior to it being  
15 submitted?

16 A I did.

17 Q Did you gather the attachments to the letter that  
18 are submitted with it?

19 A I did.

20 Q And provide them to Mr. Schwaninger for  
21 attachment?

22 A Yes, I did.

23 Q On page 6 through 9 of this exhibit, there is an  
24 affidavit that appears to be your affidavit. If you will  
25 look on page 9, it appears to be your signature.

1           A     It does.

2           Q     As the affiant. Is that your signature?

3           A     It is.

4                 (Pause.)

5           MS. LANCASTER: I have nothing further,

6     Your Honor.

7           JUDGE STEINBERG: Okay. Are you finished with

8     Mr. Brasher?

9           MS. LANCASTER: Yes, sir.

10          JUDGE STEINBERG: Do you want to take a break and  
11     you can discuss -- or do you want to just go straight  
12     through?

13          MR. ROMNEY: I'm ready to start, Your Honor, if  
14     that's more convenient for you.

15          JUDGE STEINBERG: Whatever is convenient for you.  
16     I'm here.

17          MR. ROMNEY: I'll be happy to start.

18          JUDGE STEINBERG: Okay.

19          Let me ask, Mr. Brasher, do you need a break?

20          THE WITNESS: I'm all right, Your Honor.

21          MR. ROMNEY: If I could ask a question of  
22     Ms. Lancaster?

23          MS. LANCASTER: Sure.

24          JUDGE STEINBERG: Let's go off the record.

25          (A brief recess was taken.)

1 JUDGE STEINBERG: Back on the record.

2 Ms. Lancaster has a few more questions.

3 MS. LANCASTER: Might as well get it in now  
4 instead of rebuttal after Mr. Lewis testifies.

5 BY MS. LANCASTER:

6 Q Mr. Brasher, you have an employee by the name of  
7 Thomas Lewis. Is that correct?

8 A I do. Metroplex/DLB does.

9 Q Correct. I'm sorry. And when did Mr. Lewis come  
10 to work for Metroplex/DLB?

11 A I do not have that figure. It would be with the  
12 accounting department. I do not know.

13 Q Would 2/20/94 sound about right?

14 A Approximately.

15 Q I believe Mr. Lewis services DART vehicles for  
16 DLB/Metroplex. Is that correct?

17 A His assignment was that, yes.

18 JUDGE STEINBERG: What vehicles?

19 MS. LANCASTER: DART, D-A-R-T.

20 JUDGE STEINBERG: What are those?

21 THE WITNESS: It's Dallas Rapid Transit.

22 BY MS. LANCASTER:

23 Q Does Mr. Lewis have an FCC license?

24 A Yes, he does.

25 Q Do you know how many licenses he's had?



1 A One. That's all I know.

2 Q Do you know, when did he obtain that license?

3 A I do not know.

4 Q Did you have anything to do with him obtaining the  
5 license originally?

6 A I do not know. I don't -- his license doesn't  
7 even ring a bell with me hardly at all. I'm sure any  
8 licensing that was done I had to be involved, but it does  
9 not ring a bell with me, Judy.

10 JUDGE STEINBERG: Can I interrupt? Could you  
11 determine for the record what type of an FCC license  
12 Mr. Lewis has? Because I don't know what it is and neither  
13 does the record. Unless I missed it.

14 MS. LANCASTER: No, I have not asked that. I was  
15 going to ask that.

16 BY MS. LANCASTER:

17 Q Is there still a license in Mr. Lewis' name, as  
18 far as you know?

19 A As far as I know.

20 Q Was there a license in his name when you retired?

21 A There was when I retired.

22 Q Okay. What type of license is in his name?

23 A It was a user, 900 user license.

24 Q Okay. If you'll turn to Exhibit 65 --

25 A I'm there.

1 Q Do you recognize that as being the license of  
2 Mr. Lewis?

3 A Yes, it is.

4 Q It's actually in the name Thomas R. Lewis, DBA  
5 Lewis Wrecking Service? Is that correct?

6 A That's the title. Yes.

7 Q Do you know where the original copy of this  
8 license is located?

9 A I would assume he has it.

10 Q Have you ever had the original of his license?

11 A Only a copy.

12 Q Did you apply for this license on behalf of  
13 Mr. Lewis?

14 A I would need to see the application to determine  
15 that.

16 Q Do you not remember?

17 A I don't. Not really. No. For some reason,  
18 I don't remember his license at all. If he got one, then it  
19 had to be with us, we had to help him out.

20 JUDGE STEINBERG: But you don't know.

21 THE WITNESS: I don't know.

22 BY MS. LANCASTER:

23 Q Did you complete a renewal application form for  
24 Mr. Lewis?

25 A I did not.

1 Q Did you pay any fees? By you, I mean DLB and/or  
2 Metroplex Two Way, pay any application fees for Mr. Lewis?

3 A I do not know that.

4 Q On page 4 of Exhibit 65, there appears to be a  
5 copy of a check for \$110 drawn on Mr. Lewis' account made  
6 payable to the FCC.

7 A That's correct.

8 Q Did you reimburse Mr. Lewis the \$110 for payment  
9 of that fee?

10 A I did not.

11 Q How many radios does Mr. Lewis have in his  
12 vehicle? How many radios does he have that belong to DLB?

13 A I think he has two or more trucks, which I'm going  
14 by just memory of what he used to have and own. And I think  
15 he used a couple of handhelds, but that's -- I'm only  
16 estimating what I have known in the past.

17 Q Does DLB and/or Metroplex make any use of  
18 Mr. Lewis' station or his license?

19 A His is a user license. His is not required for  
20 that frequency at all. It's just his user license. That  
21 channel there runs completely full without his. But do we  
22 use it?

23 Q Yes, that's my question.

24 A No. No.

25 Q Do you know anything about -- if you look on the

1 license, on the face of the license on page 2, it appears to  
2 license 30 mobile units. Do you have any knowledge as to  
3 why 30 mobile units would be requested for that license?

4 A No.

5 Q As far as you know, is there a business called  
6 Lewis Wrecking Service?

7 A Yes, there is. And there was two.

8 Q There were two Lewis Wrecking Service businesses?

9 A Yes, ma'am.

10 Q Who are the owners of the businesses?

11 A Lewis was this one evidently and the other one --  
12 at one time, several years back, Road One Butler was buying  
13 all the wrecker services in Dallas-Fort Worth metropolitan  
14 area they could and they were going after everybody who had  
15 any kind of wrecker service and offered them to come under  
16 their umbrella.

17 Q And there was a Lewis Wrecker Service that --

18 A That disappeared that they had in the Dallas area.

19 Q Do you know who owned that Lewis Wrecker Service?

20 A No, I do not. There is a record on it, but  
21 I don't know who owned it.

22 Q Did that Lewis Wrecker Service have any  
23 relationship or connection to Thomas R. Lewis, as far as you  
24 know?

25 A I do not know.

1           Q     Thomas Lewis is also your brother-in-law. Is that  
2 correct?

3           A     Yes.

4           Q     He is Patricia Brasher's brother. Is that  
5 correct?

6           A     That's correct.

7           Q     Do you know who prepared Lewis' application for  
8 this license?

9           A     Without looking at it, I could not tell you that.

10          Q     I want to direct your attention to page 24 of your  
11 deposition from November 28, 2000. It's in the group that  
12 has pages 1 through 82 on the front of it. The page numbers  
13 seem to have gotten a little bit confused, but let me show  
14 you. Line 6 of this page, Mr. Brasher.

15          A     Okay.

16          Q     Did I ask you at that time whether or not  
17 Mr. Black prepared this application on behalf of Thomas  
18 Lewis?

19          A     No, you did not ask that.

20          Q     Let me read it. "And Mr. Black prepared  
21 Mr. Lewis' application."

22          A     This time you did.

23                 JUDGE STEINBERG: That's the question?

24                 MS. LANCASTER: Yes, sir. That's the question on  
25 line 6.

1           THE WITNESS: That's a correct answer there,  
2     Mr. Black did. But you asked me did I and I said no, to the  
3     question before.

4           BY MS. LANCASTER:

5           Q     Did you ask Mr. Black to prepare the application?

6           A     I don't remember. I don't know.

7           Q     As far as you know, would Thomas Lewis know  
8     Mr. John Black?

9           A     Through Sue, he would.

10          Q     So it's your testimony that you never requested  
11     that Mr. Black prepare an application on behalf of Thomas  
12     Lewis?

13          MR. ROMNEY: Objection, Your Honor. Misstates  
14     prior testimony.

15          JUDGE STEINBERG: Well, just ask the question  
16     without saying it's your testimony now.

17          BY MS. LANCASTER:

18          Q     Did you ever ask John Black to prepare an  
19     application on behalf of Thomas Lewis?

20          A     I do not know.

21          Q     Did you ever forward documentation to John Black  
22     that he could use in preparing an application on behalf of  
23     Thomas Lewis?

24          A     I do not remember. I don't know.

25          JUDGE STEINBERG: So those last two answers, you

1       could have done so, but you just don't remember today.

2               THE WITNESS:  Yes, sir.  That's correct

3               (Pause.)

4               MS. LANCASTER:  Your Honor, at this point, I would  
5       like to move for admission of --

6               JUDGE STEINBERG:  Let's get it identified first.

7               MS. LANCASTER:  Okay.  I don't know what the  
8       number --

9               JUDGE STEINBERG:  69 is the next number.

10              MS. LANCASTER:  69.

11              JUDGE STEINBERG:  Thank you.

12              MS. LANCASTER:  I'm presenting two copies to  
13       the court reporter, Your Honor, and ask that this exhibit  
14       be marked and identified as Enforcement Bureau Exhibit 69  
15       and that it be moved into evidence, be accepted into  
16       evidence.

17              MR. ROMNEY:  No objection, Your Honor.

18              JUDGE STEINBERG:  Okay.  I'll describe it.  
19       It's entitled Revised and Corrected Copy, Deposition of  
20       Ronald Brasher, pages 223 through 243; Place:  Dallas,  
21       Texas; Date:  December 5, 2000.

22              MR. KNOWLES-KELLETT:  Your Honor, could I put an  
23       explanation on the record?

24              JUDGE STEINBERG:  Wait a second.

25              (Pause.)

1 JUDGE STEINBERG: Okay. It's 22 pages long and it  
2 will be marked for identification as EB Exhibit 69 and  
3 without objection it will be received into evidence.

4 (The document referred to was  
5 marked for identification as  
6 Enforcement Bureau Exhibit  
7 No. 69 and was received in  
8 evidence.)

9 MR. KNOWLES-KELLETT: Just to clarify the record,  
10 Your Honor, when the depositions were first returned from  
11 the court reporter, both the second and third day's  
12 depositions began serially --

13 JUDGE STEINBERG: Yes, they started numbering  
14 again.

15 MR. KNOWLES-KELLETT: -- serially after the first  
16 day's deposition. To avoid the problem of two Ronald  
17 Brasher deposition pages 87, we asked that it be revised and  
18 corrected as to the page numbers.

19 Now, when this says revised and corrected, it does  
20 not mean that it's revised and corrected to include any  
21 corrections that Mr. Brasher made pursuant to the rule  
22 regarding depositions.

23 JUDGE STEINBERG: Does everybody agree with that?  
24 Or do you want to add something to it or --

25 We have here Exhibit 69, whatever the page numbers



1 are, they are, whatever it says, it says.

2 MR. PEDIGO: That's right.

3 JUDGE STEINBERG: And I don't really care whether  
4 it's page 95 or 229, as long as everybody refers to the same  
5 page.

6 Okay. Does that complete your examination of  
7 Mr. Brasher?

8 MS. LANCASTER: Yes, sir.

9 JUDGE STEINBERG: Okay. Mr. Romney?

10 MR. ROMNEY: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. ROMNEY:

13 Q Mr. Brasher, let me take you back to these last  
14 questions that were asked you regarding Mr. Thomas Lewis.

15 Do you have before you Exhibit 65, sir?

16 A I'm there now.

17 Q I'd like to refer you to the page that's marked on  
18 the bottom as number 2 of Exhibit 65.

19 Do you see that, sir?

20 A Yes, sir.

21 Q And I believe you testified that's the radio  
22 license for Thomas Lewis. Is that right?

23 A Yes, sir.

24 Q What kind of a license is that?

25 A That's a user license.

1 Q On what kind of a system?

2 A On a 900 system.

3 Q And do you see the date on that license, sir?

4 A Yes, sir.

5 Q What is that?

6 A 11/28/1997 to 11/03/2000.

7 Q As of November of 1997, did DLB have a 900 series  
8 operation?

9 A Yes, sir.

10 Q What was the loading on that system at that time?

11 A Full capacity. Seventy to 90 units.

12 Q Prior to the time that Mr. Lewis got this license?

13 A Full capacity. Seventy to 90.

14 Q And did this fulfill any necessity that DLB had to  
15 fulfill any of its loading requirements on the 900 --

16 A None whatsoever.

17 Q -- series system? You'll need to wait until  
18 I finish --

19 A I'm sorry.

20 Q -- my question. I know you're anxious to get the  
21 answer out.

22 Now, does this license, the second page of Exhibit  
23 No. 65, does that have anything to do with the T-band system  
24 that was being constructed up in Allen?

25 A Has nothing to do with the T-band system at all.

1 Q Would you turn to page number 4, the 04 on the  
2 bottom? Or the circled 4?

3 A I'm there.

4 Q Yes, sir. Do you have any recollection, sir, of  
5 reimbursing Mr. Lewis in cash for \$110 for this check?

6 A I did not.

7 JUDGE STEINBERG: Well, how about other than in  
8 cash?

9 THE WITNESS: None.

10 JUDGE STEINBERG: Green Stamps, money orders?

11 THE WITNESS: No reimbursement at all, sir.

12 BY MR. ROMNEY:

13 Q Nothing of value was given from you to Mr. Lewis  
14 in exchange for him paying \$110 to the FCC?

15 A That's correct.

16 Q Let me take you now to some of the questions that  
17 were asked you about Sue Lutz. Just to clarify, you  
18 testified that you had talked to Ms. Lutz about her  
19 obtaining a license on the T-band system. Is that correct?

20 A That's correct.

21 Q Were there conversations, to your knowledge, sir,  
22 that happened prior to that?

23 A Yes, there were.

24 Q Would you explain to the Court what those were,  
25 please?

1           A     When Sue came back to work, about the time -- just  
2 prior to obtaining or looking at T-band frequencies, Sue  
3 covered with Pat that she wanted to --

4           MS. LANCASTER:  Objection, Your Honor.  Hearsay.

5           JUDGE STEINBERG:  We've been admitting hearsay all  
6 over the place.  Hearsay has been received all over the  
7 place and I don't see why we should cut it off here.  As a  
8 matter of fact, in answer to your questions, the testimony  
9 was that Pat talked to Sue and then Pat told Ron and then  
10 Ron talked to Sue.  And that's loaded with hearsay, too.

11          MS. LANCASTER:  Well, there was no objection to  
12 it, so --

13          JUDGE STEINBERG:  Well, I mean, we have to be fair  
14 about this.

15          MS. LANCASTER:  Okay.

16          JUDGE STEINBERG:  Why don't you start your  
17 answer again or state the question again because I've  
18 forgotten it.

19          MR. ROMNEY:  Thank you.

20          BY MR. ROMNEY:

21          Q     Prior to your conversation with Ms. Lutz about her  
22 obtaining a license on the T-band system, were there other  
23 conversations that occurred, to your knowledge, with  
24 Ms. Lutz about that license?

25          A     Yes, there were.

1           Q     Explain to the Court what those were, to your  
2 knowledge.

3           A     When Sue came back to work in the early part of  
4 '95, she approached Pat after she knew that the Sumpters  
5 were interested in obtaining some licenses in their name.  
6 She asked Pat if she could be included.

7                     Pat in turn asked me to ask her. The reason that  
8 is, basically, to smooth the feelings there, that it didn't  
9 seem like Pat was forcing me to do it. So I asked Sue if  
10 she would.

11          Q     To your knowledge, she was the one that expressed  
12 an interest first?

13          A     Yes.

14                     JUDGE STEINBERG: But that's what Pat told you.

15                     THE WITNESS: Correct.

16                     BY MR. ROMNEY:

17          Q     Now, to your knowledge, had Ms. Lutz had any other  
18 type of an FCC license prior to this T-band license in  
19 question?

20          A     Yes, sir.

21          Q     And what was that?

22          A     It was a 900 license, I think it was in 1994 when  
23 it started or in the process, it was issued some time in  
24 1990 -- I think some time in 1995 after she had already left  
25 our company.

1           Q     That particular license, did you ever have any  
2     discussions with Ms. Lutz about what that particular license  
3     might be worth?

4           A     Not that particular license. It's just a pure  
5     user license for her and her -- I guess her husband along  
6     the line to use in their business or their personal life. It  
7     had no value to anyone except them, whoever that used the  
8     radios.

9           Q     And what series was that on? Do you remember?  
10    What system was that on?

11          A     It was on a 900 system.

12          Q     In 1994 at the time that license was applied for,  
13    what was the loading capacity of the DLB 900 system?

14          A     Full capacity, 70 to 90 units.

15          Q     Was there any necessity at that time on the part  
16    of DLB to have additional licenses to fully load their 900  
17    system?

18          A     It would not help one bit.

19                JUDGE STEINBERG: Let me interrupt and ask a  
20    question.

21                (A brief recess was taken.)

22                JUDGE STEINBERG: All right. We're back on the  
23    record.

24                We were talking about Ms. Lutz's 900 user license  
25    and I believe if I'm characterizing this, if I have

1 something wrong, you tell me, I believe that DLB or  
2 Metroplex had a 900 system at that time?

3 THE WITNESS: Yes, sir.

4 JUDGE STEINBERG: And at that time, what are  
5 talking about, 1994?

6 THE WITNESS: '94. Yes, sir.

7 JUDGE STEINBERG: Okay. And you said it was fully  
8 loaded.

9 THE WITNESS: Yes, sir.

10 JUDGE STEINBERG: If you wanted to expand  
11 that system, that 900 system that you had, to  
12 include other users, wouldn't you need another license to  
13 do that?

14 THE WITNESS: At that time, Your Honor, the 900s  
15 are all gone. You could not get none.

16 JUDGE STEINBERG: So once it's fully loaded and  
17 900s are all gone, you couldn't get another one unless you  
18 bought it from someone else that had it.

19 THE WITNESS: That's correct.

20 JUDGE STEINBERG: And were there any -- never  
21 mind. That's irrelevant. Okay.

22 BY MR. ROMNEY:

23 Q In further explanation, Mr. Brasher, the 900  
24 license that Ms. Lutz had was a user license, correct?

25 A It was a user license.

1           Q     And there was no attempt by DLB at that time to  
2     try to expand its 900 service by obtaining more station  
3     licenses.

4           A     It would be impossible to do.   Yes, sir.

5           Q     And that was because why?

6           A     There are no 900 channels available in that  
7     marketplace unless you want to pay a very large amount of  
8     money from someone who had a 900 that's constructed some  
9     place.

10          Q     Was it your understanding that all the 900  
11     channels had been already apportioned out by the Federal  
12     Communications Commission?

13          A     They all have.

14          Q     Okay.  Now, with regard to this T-band license  
15     that you were asked about with Ms. Lutz, would you put  
16     before you Exhibit No. 61, please?

17          A     I'm there.

18          Q     Now, that was an assignment form for Ms. Lutz's  
19     license to be transferred to DLB?

20          A     That's correct.

21          Q     Did that assignment ever take place?

22          A     It's still pending with this hearing.

23          Q     So that assignment, to your knowledge, has never  
24     gone forward, pending this matter that's being investigated  
25     by the FCC that we're in right now.



1           A     That's the way I understand it. Yes, sir.

2           Q     You were asked a question about a management  
3 agreement and let me find that number.

4           JUDGE STEINBERG: Was this Mr. O.C. Brasher's  
5 agreement?

6           MR. ROMNEY: No, sir. I'm talking about Ms. Lutz.

7           JUDGE STEINBERG: Okay.

8           THE WITNESS: 62, would it be?

9           MR. ROMNEY: Yes, sir.

10          BY MR. ROMNEY:

11          Q     Is that a copy of a management agreement that you  
12 gave to Ms. Lutz for her consideration?

13          A     Let me review it just a second.

14          MS. LANCASTER: 62 is a blank copy, it appears to  
15 be, my 62.

16          JUDGE STEINBERG: We have a pending question.

17          MR. ROMNEY: I'm not sure that there's been a  
18 document that was propounded by counsel for the Enforcement  
19 Bureau purporting to be a management agreement for Ms. Lutz.  
20 I don't see that on my notes. Perhaps there was, maybe  
21 there wasn't.

22               (Pause.)

23          BY MR. ROMNEY:

24          Q     Would you turn to page 12 of Exhibit 62, please?

25          A     I'm there.

1 Q Have you seen that document before?

2 A No, not until this meeting.

3 Q Do you know whose handwriting that is or do you  
4 have any idea?

5 A I would -- to be sure, it looks like Sue's.

6 Q And you have seen Sue's handwriting before?

7 A Yes.

8 Q And you believe that to be Sue's handwriting, at  
9 least by your experience with her handwriting?

10 A Yes, sir.

11 Q You did give a management agreement to Ms. Lutz  
12 for her consideration, correct?

13 A That's correct.

14 Q A written management agreement?

15 A Correct.

16 Q Similar to the other management agreements that  
17 have been testified to previously?

18 A Exactly. Exactly.

19 Q And did Ms. Lutz fill it out?

20 A No.

21 Q What happened?

22 A She took the management agreement that I got  
23 from Mr. Schwaninger's office and revised it to her desires.

24 MR. ROMNEY: Permission to approach, Your Honor?

25 JUDGE STEINBERG: You don't have to ask. You can

1 just come up.

2 MR. ROMNEY: It's hard to break my habit.

3 (Pause.)

4 JUDGE STEINBERG: You need two for the court  
5 reporter and then --

6 MR. ROMNEY: There's just one there.

7 JUDGE STEINBERG: Okay.

8 (Pause.)

9 JUDGE STEINBERG: Okay. What are you marking?

10 MR. ROMNEY: If you would mark that as my Exhibit  
11 70.

12 JUDGE STEINBERG: Okay. You're just picking a  
13 number at random?

14 MR. ROMNEY: Yes. Well, just because there's a 69  
15 already.

16 JUDGE STEINBERG: Well, we mark them -- let's go  
17 off the record.

18 (A brief recess was taken.)

19 JUDGE STEINBERG: Back on the record.

20 We have marked for identification as RB/PB Exhibit  
21 No. 1 an eight-page document entitled Radio System  
22 Management and Marketing Agreement and on the top is in  
23 printing copy of management agreement proposed, et cetera,  
24 et cetera. And so that will be marked for identification as  
25 RB/PB Exhibit 1.

1 (The document referred to was  
2 marked for identification as  
3 RB/PB Exhibit No. 1.)

4 MR. ROMNEY: Thank you.

5 JUDGE STEINBERG: And, Mr. Romney, when you  
6 make -- the reporter needs two copies and if you would just  
7 write across the top of it the RB/PB exhibit number, I would  
8 appreciate it.

9 BY MR. ROMNEY:

10 Q Mr. Brasher, I put before you what's been marked  
11 for identification as RB/PB Exhibit No. 1.

12 Would you identify that document for the Court,  
13 please?

14 A Yes. I have that document.

15 Q What is that document?

16 A It is a Radio System Management and Marketing  
17 Agreement that was altered for this format by Susan Lutz  
18 from the original management agreement.

19 Q Is this the copy of the agreement that you  
20 mentioned that she gave you her what has been received into  
21 evidence as Exhibit 62?

22 A That's correct.

23 Q When you got the copy of this exhibit, RB/PB  
24 Exhibit 1, did it have the handwriting on the top of it?

25 A No, it did not.